



POLICE DEPARTMENT

-----X  
In the Matter of the Disciplinary Proceedings :  
- against - : FINAL  
Sergeant Mario Buonviaggio : ORDER  
Tax Registry No. 913597 : OF  
Housing Borough Manhattan : DISMISSAL  
-----X

Sergeant Mario Buonviaggio, Tax Registry No. 913597, Shield No. 539, Social Security No. [REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 81326/05 as set forth on form P.D. 468-121, dated October 3, 2005, and written Charges and Specifications numbered 82326/06 as set forth on form P.D. 468-121, dated October 19, 2006, and after a review of the entire record, has been found Guilty as Charged.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Sergeant Mario Buonviaggio from the Police Service of the City of New York.

  
RAYMOND W. KELLY  
POLICE COMMISSIONER

EFFECTIVE: 01/20/10 AT 2400 HRS

COURTESY • PROFESSIONALISM • RESPECT



POLICE DEPARTMENT

November 27, 2009

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In the Matter of the Charges and Specifications : Case Nos. 81326/05  
: & 82326/06  
- against - :  
Sergeant Mario Buonviaggio :  
Tax Registry No. 913597 :  
Housing Borough Manhattan :  
-----X

At: Police Headquarters  
One Police Plaza  
New York, New York 10038

Before: Honorable Robert W. Vinal  
Assistant Deputy Commissioner - Trials

APPEARANCE:  
For the Department:

David Green, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, New York 10038

For the Respondent:

Robert E. Brown, Esq.  
44 Wall Street, 10<sup>th</sup> Floor  
New York, NY 10005

To:

HONORABLE RAYMOND W. KELLY  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

COURTESY • PROFESSIONALISM • RESPECT

The above-named member of the Department appeared before me on July 22, 2009,<sup>1</sup> charged with the following:

Disciplinary Case No. 81326/05

1. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct or Housing Borough Manhattan Viper Unit, on or about July 22, 2005, while off-duty, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did wrongfully push or shove a female individual known to the Department and did wrongfully pull said individual by her hair.

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS

2. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct or Housing Borough Manhattan Viper Unit, on or about August 8, 2005, while off duty, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did wrongfully spit in the face of a female individual known to the Department while her juvenile son was present.

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS

3. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct or Housing Borough Manhattan Viper Unit, on or about July 11, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did wrongfully access the private Verizon Wireless cellular telephone account of a female individual known to the Department, and did wrongfully change said account without permission or authority, to wit: said Sergeant received said female individual's private cellular telephone account records in said Sergeant's private E-mail account. (*As amended*<sup>2</sup>)

P.G. 203-10 Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS

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<sup>1</sup> The hearing record was held open until August 5, 2009, for the preparation of a transcript regarding the tape recording that is Respondent's Exhibit E in evidence.

<sup>2</sup> The Assistant Department Advocate orally amended this charge immediately prior to the commencement of the mitigation hearing. As a result, there is no written set of charges which contains the amended wording of this Specification.

4. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct or Housing Borough Manhattan Viper Unit, on or about August 26, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did wrongfully access the private DirecTV account of a female individual known to the Department, and did wrongfully change said account without permission or authority, to wit: after said individual had closed said account on August 25, 2005 because hundreds of dollars worth of Pay-[P]er-View events were charged to said account without permission or authority, said Sergeant telephoned DirecTV and reopened said individual's account.

P.G. 203-10 Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS

Disciplinary Case No. 82326/06

1. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 10, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did wrongfully possess property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof, to wit: said Sergeant did possess one or more checks under account number ending in 378950 with Discover Credit issued to another individual known to the Department, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS  
N.Y.S. Penal Law Section 165.40 – CRIMINAL POSSESSION OF STOLEN  
PROPERTY IN THE FIFTH DEGREE

2. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 18, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did wrongfully possess property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof, to wit: said Sergeant did possess one or more checks under account number ending in 378950 with Discover Credit issued to another individual known to the Department, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS  
N.Y.S. Penal Law Section 165.40 – CRIMINAL POSSESSION OF STOLEN  
PROPERTY IN THE FIFTH DEGREE

3. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 30, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did wrongfully possess property, with

intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof, to wit: said Sergeant did possess one or more checks under account number ending in 378950 with Discover Credit issued to another individual known to the Department, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS  
N.Y.S. Penal Law Section 165.40 – CRIMINAL POSSESSION OF STOLEN  
PROPERTY IN THE FIFTH DEGREE

4. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 30, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did wrongfully possess property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof, to wit: said Sergeant did possess one or more checks under account number ending in 71106 with Independence Bank issued to another individual known to the Department, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS  
N.Y.S. Penal Law Section 165.40 – CRIMINAL POSSESSION OF STOLEN  
PROPERTY IN THE FIFTH DEGREE

5. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 10, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant, with intent to defraud, deceive or injure another, falsely made, completed or altered a written instrument, to wit: said Sergeant sign the name of another individual known to the Department on one or more checks under account number ending in 378950 with Discovery Credit issued to said other individual, to purchase merchandise or services, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS  
N.Y.S. Penal Law Section 170.05 – FORGERY IN THE THIRD DEGREE

6. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 18, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant, with intent to defraud, deceive or injure another, falsely made, completed or altered a written instrument, to wit: said Sergeant signed the name of another individual known to the Department on one or more checks under account number ending in 378950 with Discover Credit issued to said other individual, to purchase merchandise or services, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

## GENERAL REGULATIONS

## N.Y.S. Penal Law Section 170.05 – FORGERY IN THE THIRD DEGREE

7. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 30, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant, with intent to defraud, deceive or injure another, falsely made, completed or altered a written instrument, to wit: said Sergeant signed the name of another individual known to the Department on one or more checks under account number ending in 378950 with Discover Credit issued to said other individual, to purchase merchandise or services, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS

N.Y.S. Penal Law Section 170.05 FORGERY IN THE THIRD DEGREE

8. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 30, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant, with intent to defraud, deceive or injure another, falsely made, completed or altered a written instrument, to wit: said Sergeant signed the name of another individual known to the Department on one or more checks under account number ending in 71106 with Independence Bank issued to said other individual, to purchase merchandise or services, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS

N.Y.S. Penal Law Section 170.05 – FORGERY IN THE THIRD DEGREE

9. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 26, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant, with intent to defraud, deceive or injure another, falsely made, completed or altered a written instrument, to wit: said Sergeant utilized the routing number of another individual known to the Department on one or more checks under account number ending in 71106 with Independence Bank issued to said other individual, to purchase merchandise or services, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS

N.Y.S. Penal Law Section 170.05 – FORGERY IN THE THIRD DEGREE



10. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 10, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did steal property, to wit: said Sergeant did sign and mail one or more checks under account number ending in 378950 with Discover Credit issued to another individual known to the Department, in order to obtain merchandise or services, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS  
N.Y.S. Penal Law Section 155.25 PETIT LARCENY

11. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 18, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did steal property, to wit: said Sergeant did sign and mail one or more checks under account number ending in 378950 with Discover Credit issued to another individual known to the Department, in order to obtain merchandise or services, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS  
N.Y.S. Penal Law Section 155.25 PETIT LARCENY

12. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 30, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did steal property, to wit: said Sergeant did sign and mail one or more checks under account number ending in 378950 with Discover Credit issued to another individual known to the Department, in order to obtain merchandise or services, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS  
N.Y.S. Penal Law Section 155.25 – PETIT LARCENY

13. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 30, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did steal property, to wit: said Sergeant did sign and mail one or more checks under account number ending in 71106 with Independence Bank issued to another individual known to the Department, in order to obtain merchandise or services, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS  
N.Y.S. Penal Law Section 155.25 – PETIT LARCENY

14. Said Sergeant Mario Buonviaggio, while assigned to the 62nd Precinct, on or about August 30, 2005, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant did steal property, to wit: said Sergeant utilized the routing number of another individual known to the Department on one or more checks under account number ending in 71106 with Independence Bank issued to said other individual, in order to obtain merchandise or services, without permission or authority to do so.

P.G. 203-10 Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS  
N.Y.S. Penal Law Section 155.25 – PETIT LARCENY

The Respondent, through his counsel, entered a plea of Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

#### DECISION

##### Disciplinary Case No. 81326/05

The Respondent, having pleaded Guilty, is found guilty as charged.

##### Disciplinary Case No. 82326/06

The Respondent, having pleaded Guilty, is found guilty as charged.

#### SUMMARY OF EVIDENCE IN MITIGATION

The Respondent testified that during 2001, [REDACTED] On June 20, 2004, [REDACTED]. As a result of these injuries, during the summer of 2005 he [REDACTED]. These medications made him feel "foggy" and, as a result, his "decisions weren't quite clear."



In October, 2004, he began dating Sergeant Joanne Guidice. In April, 2005, he married Celeste Cafiso, the sister of Detective Salvatore Cafiso who had died in the line of duty in 2002 and in whose honor the Respondent established the Detective Salvatore Cafiso Foundation [Respondent's Exhibit (RX) D].

The Respondent did not tell Guidice that he had married and he continued to date Guidice. In July, 2005, Guidice discovered that he was married. [Guidice told Department investigators that she then told the Respondent that she had met someone else and that she wanted to break off their relationship (RX E)]. The Respondent testified that he left voice mail messages on Guidice's telephone "a couple times a day" in which he told her that he still loved her, that he missed her, that he wanted to be with her, that he wanted to go away with her, that he wanted to make her happy, and that he was sorry that he had deceived Guidice by not telling her that he had married.

During July, 2005, Guidice telephoned his parents' residence twice. One of these calls was made after midnight. One day he came home to find his wife Celeste speaking to Guidice on the telephone. Celeste told him that Guidice had called their residence. The Respondent told Guidice that she had to stop calling his house. Magazines began to be delivered to his residence that neither he nor Celeste had subscribed to or ordered.

With regard to the charges in Disciplinary Case No. 81326/05, the Respondent recalled that on July 21, 2005, Guidice telephoned him twice. On July 22, 2005, he went to Guidice's workplace. Guidice began yelling at him and he pushed her and pulled her hair. On August 8, 2005, Guidice requested that he help her fix a broken door lock. He went to Guidice's residence. He gave her son money to buy ice cream. Her son was present when they began to argue. Because Guidice would not stop screaming at him, "I

had to grab her and tell her to shut the fuck up.” Because they were standing face-to-face, his saliva sprayed on her face. He did not intentionally spit at her. [Guidice told Department investigators that the Respondent’s spit hit her face while he was yelling at her face-to-face and that he did not intentionally expectorate at her (RX E)].

On July 11, 2005, either his wife Celeste or Guidice herself arranged for him to receive access to Guidice’s private [REDACTED] cellular telephone account. He changed her account without her permission and he received her private cellular telephone account records in his e-mail account.

The Respondent testified that in retaliation for what Guidice had done to him, he accessed Guidice’s private DirecTV account, ordered \$400 worth of DirecTV Pay-Per-View events and charged them to Guidice’s DirecTV account. As a result of these unauthorized charges, Guidice closed her DirecTV account on August 25, 2005. The Respondent admitted that on August 26, 2005, he telephoned DirecTV and reopened Guidice’s DirecTV account without her permission.

With regard to the charges in Disciplinary Case No. 82326/06, the Respondent recalled that Guidice asked him to pick up her mail at her residence while she was away and to hold it for her until she returned home. The Respondent retrieved mail addressed to Guidice including envelopes containing courtesy checks from Discover Card and Independence Bank. The Respondent opened these envelopes and removed the blank checks which had been provided for Guidice’s use. In retaliation for what Guidice had done to him, the Respondent forged Guidice’s signature on these checks. The Respondent testified that he made out one of these checks to DirecTV in the amount of \$400 to pay for the Pay-Per-View events he had ordered and charged to Guidice’s

DirecTV account. He used other checks to purchase merchandise and magazines which he had delivered to her residence. He did not purchase any merchandise for himself and he received no personal financial benefit from using these checks.

The Respondent testified that he performs volunteer work for Project Hospitality, a charity organization, which has awarded him with a certificate of appreciation (RX C). He testified that his good work as a police officer, especially when he was assigned as an undercover officer, has mostly gone unnoticed.

On July 10, 2007, an Article II Medical Board recommended approval of the Respondent's application for Accident Disability Retirement (RX G).

The Respondent described the treatment he has received from Sally Ricottone a Certified Social Worker who is a Psychotherapist. The Respondent offered a letter Ricottone wrote on his behalf describing his "treatment summary" (RX F). The letter reads as follows:

Mr. Buonviaggio has been under my care since April 2005. He initially sought treatment for marital difficulties. I provided marital counseling for a short time, however it soon became evident the Mr. Buonviaggio was intimately involved with another woman. At the time of discovery we terminated marital counseling, and I began to work with Mr. Buonviaggio individually. It was very apparent that his extra marital affair had caused an enormous degree of conflict and stress. The situation was creating an overall sense of agitation and emotional duress. He was confused, guilt ridden and depressed.

As is typical in these circumstances, the person he was involved with began to put a great deal of pressure on my client. This pressure and her threat to expose him created in him acute hostility. He began to find ways to retaliate. He was driven by fear and guilt. Mr. Buonviaggio is a very private person. The threat of possibly being exposed caused him to react irrationally.

Our work through out this time always included a cost/benefit analysis of his actions or potential acts. As a result of our work and Mr. Buonviaggio's increased understanding of his actions, he developed a far better understanding of the magnitude and seriousness of the situation that he created.

My therapeutic relationship with Mr. Buonviaggio spanned over the past four years. In 2007 he however, began to demonstrate an impressive commitment to the very difficult process of self examination. Since he is a very private, this process is indeed

hard. He continues to work in therapy to further his understanding of his psychological life and the impact his actions have on others.

On cross-examination, the Respondent acknowledged that he first began his volunteer work with Project Hospitality only after he was suspended and that Ricottone had suggested to him that he engage in this work. With regard to the \$400 worth of DirecTV Pay-Per-View events he ordered and charged to Guidice's DirecTV account, he could not recall what programs he had ordered. On August 10, 2005, the Respondent signed Guidice's name on a Discover Card check he made out in the amount of \$400 payable to DirecTV for the Pay-Per-View events he had ordered without her knowledge.

On August 18, 2005, the Respondent used one of Guidice's checks to purchase clothing from the Anthony Richards store to be delivered to her residence. He chose this company because he saw their advertisement in one of the magazines that was mailed to him. He used another of Guidice's checks to order "breast enlargement devices" and "a blow up doll" to be delivered to her residence by Shore Line Business Products.

On August 30, 2005, the Respondent used one of Guidice's Discover checks to purchase a subscription in Guidice's name to "Fox," a sexually explicit magazine. He also used one of Guidice's checks to purchase skin care products to be delivered to her residence. He had no intention of reimbursing Guidice for the purchases that he made with her checks. He forged Guidice's signature on each of the checks he wrote out.

When he was asked what specific actions Guidice had engaged in that had caused him to retaliate against her, he stated, "Her calling my parents' line twice at an utmost unreasonable time considering their age, once at midnight; her calling my home after the first interaction; her calling my job, again which happened that was another incident that happened at the end of 2005; the yelling, her leaving the voice mails, you know,

threatening to tell everybody, you know, my situation, you know my personal situation. That was it. She was invading personal contacts of people that were not aware of what was going on with Celeste and myself.”

When he was asked if he was embarrassed when Guidice called Celeste’s parents and his parents and told them what was going on, he answered, “She didn’t specifically tell my parents what’s going on. She said, ‘It’s work related.’” Guidice told his parents that it was very important that the Respondent call her. The Respondent testified that he “in return received a phone call from my mother at an unreasonable time and I am sure we can all be familiar that after a certain hour a phone call is never good. And I was very surprised about it, and it was an unreasonable time. It was after midnight, especially this one particular time.” He testified that when these phone calls took place he did not report them to any member of the Department.

When he was asked if Guidice did anything else other than the phone calls to his parents and the call she made to his house when he came in and Celeste was talking to her, he responded that she “came to my house unannounced while I had company. That was another time. Another time she came to my house, I placed a video recorder in front of my house, approached and walked up my driveway. This was around 11:30 p.m. I questioned her about it. ‘What is your reasoning for coming uninvited? You know I am not home.’ This was getting, you know, understandably now, but it emotions running high on all the parties. I was trying in every attempt to be cordial and calm and closure on both sides, meaning Celeste and Joanne (Guidice).”

He confirmed that during the summer of 2005, he left voice mail messages on Guidice’s answering machine telling her how much he loved her, that he wanted to be



with her, that he wanted to go away with her, that he wanted to move on and go away with her. When he was asked how forging her name on checks without her permission to order her sexual enhancement devices and pornographic magazines demonstrated his love for her, he responded that, "I was in an emotional tug of war. I was involved widely with two people...Celeste and Joanne. At this point, it was very volatile on both sides. I was dealing with complications work related. I was trying to keep everything intertwined together. I was trying to have closure with both parties in a calm and cordial manner. That was proven unsuccessful."

When he was asked if he considered forging Guidice's signature on her checks to be a calm and cordial action, he responded, "This went beyond that with her escalating my emotions, escalating the emotions of my immediate family, escalating the emotions of now my ex-wife, escalating the emotions of now the family I was involved with on her side. It has widened and definitely gotten out of hand for all three parties involved. I know I can't speak for other parties, but obviously there were emotions entangled all three ways."

When he was asked if he really believed then that Guidice was going to get back with him and go away with him, he answered, "No. That was not my intention at that time. I was not thinking clearly. Like I stated before, I was holding a lot."

On redirect examination, the Respondent was asked whether it was his intent that Guidice pay for the items he had ordered using the checks he forged, he answered, "No, it was not my intent to pay the money. I mean, obviously, it's the process you receive a bill, but that wasn't my intent. My ultimate intent was to calmly detach everything. I am saying this again. I was holding a lot in my hand. I was involved with two people, I had

my job that I kept in line, on the medication, thought it would get better. I was trying to heal myself. I was trying to keep work progressing, I was trying to keep my peers in line, and trying to keep my emotions and my personal life in balance. It was very difficult.”

When he was asked if he recalled that a Department investigator had told him that it had taken Guidice a long time to get her accounts credited for all of the charges caused by his forged checks, he answered that he had been told by his legal counsel that all of Guidice’s accounts were credited for all of the charges he had caused to her accounts.

### PENALTY

In order to determine an appropriate penalty, the Respondent’s service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). The Respondent was appointed to the Department on April 30, 1995, when the Housing Authority Police Department merged into this Department. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

With regard to Disciplinary Case No. 81326/05, the Respondent admitted that he engaged in off duty misconduct by pushing and by pulling the hair of Sergeant Joanne Guidice during an argument at her place of work. On a subsequent occasion he spit in her face during an argument at her residence while her juvenile son was present. Guidice told Department investigators that the Respondent’s spit hit her face while he was yelling at her face-to-face and that he did not intentionally expectorate at her (RX E). More seriously, the Respondent admitted that he received Guidice’s private cell telephone account records in his E-mail account and that after she closed her private DirecTV

account because hundreds of dollars worth of Pay-Per-View events had been charged to the account, he reopened her account without her permission.

With regard to Disciplinary Case No. 82326/06, the Respondent has admitted that over a 20-day period he committed numerous crimes including forging Guidice's signature on checks that had been mailed to her by a bank and a credit card company. He admitted that he used Guidice's checks to pay for \$400 worth of Pay-Per-View events which he had ordered and charged to her account without her permission, and to place mail orders to have skin care products, "breast enlargement devices," a "blow up doll" and a sexually explicit magazine delivered to her residence. He further admitted that when he ordered these items he intended that her checking account would be debited for each of the checks he forged.

Although the Respondent asserted that the pain he suffered from his injuries and the prescription medications he was taking for that pain clouded his judgment, he offered no medical testimony that the specific medications he was prescribed could cause him to engage in the outrageous actions he took against Guidice. The Respondent asserted that he committed these crimes in retaliation for Guidice's acts of harassment against him, but when pressed to detail what she had done to him he could only cite her telephone calls to him, his wife and his and his wife's parents and her coming to his house uninvited when he had company. A member of the service is never justified in engaging in criminal conduct and I find it significant that the Respondent admitted that he made no attempt whatsoever to stop her alleged harassment by making a complaint against her through official Department channels or through the court system. The Respondent admitted that he did not report what he alleges Guidice did to him to any member of the Department

and he further admitted that he never attempted to obtain an Order of Protection against Guidice to prevent her from harassing him.

The Respondent offered a letter from Sally Ricottone, a Certified Social Worker who has treated the Respondent (RX F), which states that “in 2007” after “four years” of therapy “he began to demonstrate an impressive commitment to the very difficult process of self examination;” and that “he continues to work in therapy to further his understanding of his psychological life and the impact his actions have on others.” However, Ricottone acknowledged in this letter that the Respondent initially deceived her, as well as his wife Celeste, about his extramarital affair with Guidice and Ricottone’s belief that he has “developed a far better understanding of the magnitude and seriousness of the situation that he created” does not obviate the outrageous misconduct he has pleaded guilty to having committed in the present disciplinary cases.

The Respondent also offered Certificates of Achievement and City Council Citations (RX A), Certificates of Appreciation (RX C), a Perfect Attendance Award, newspaper clippings regarding good police work, and letters attesting to his good character from his former wife Celeste Cafiso and others including retired Lieutenant John Doherty (RX D). However, the Respondent acknowledged that he began his volunteer work with Project Hospitality only after he was suspended and only after Ricottone suggested that he engage in this work.

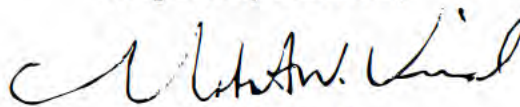
The Respondent’s admission that with intent to harass Guidice, he knowingly committed crimes by opening her mail and forging Guidice’s name on her checks which he used to order explicit, sex-related merchandise to be delivered to her at her expense reflects poorly on his character and his fitness to serve as a police officer. In addition,

these two disciplinary cases mark the third and fourth occasions on which the Respondent has been found guilty of Charges and Specifications within the past six years (see attached confidential memorandum). Finally, although the Respondent apologized to the Department, he offered no direct apology to Guidice for what he did to her.

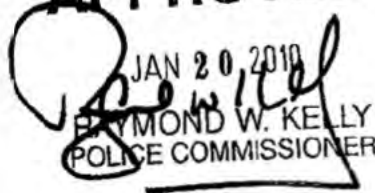
The Assistant Department Advocate recommended that the Respondent be dismissed from the Department.

I recommend that the Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,



Robert W. Vinal  
Assistant Deputy Commissioner - Trials

**APPROVED**  
JAN 20 2010  
  
RAYMOND W. KELLY  
POLICE COMMISSIONER



POLICE DEPARTMENT  
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
SERGEANT MARIO BUONVIAGGIO  
TAX REGISTRY NO. 913597  
DISCIPLINARY CASE NOS. 81326/05 & 82326/06

The Respondent received an overall rating of 4.0 on his 2008 annual performance evaluation, 3.0 on his 2007 annual evaluation and 3.5 on his 2005 evaluation. He has been awarded one Meritorious Police Duty medal and six Excellent Police Duty medals.

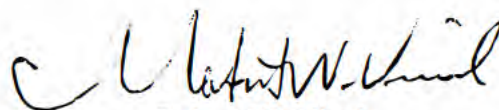
[REDACTED]

He has a prior formal disciplinary record. In 2003, he forfeited 15 vacation days after he pleaded guilty to engaging in conduct prejudicial to the good order, efficiency and discipline of the Department by writing "Let's all suck cock" on the 78 Precinct Muster Room blackboard.

In 2005, he forfeited a total of 25 days (consisting of ten suspension days and 15 vacation days) after he was found guilty at trial of three Specifications charging that he had engaged in conduct prejudicial to the good order, efficiency and discipline of the Department by putting in for eight hours of overtime to which he was not entitled; that he had failed to submit overtime reports at the end of eight tours of duty; and that he had put in for overtime on two occasions for working past the end of his tour to supervise the vouchering of narcotics when his commanding officer had ordered him not to do this.

In March, 2007, he was placed in Special Monitoring - Level III due to poor performance.

For your consideration.



Robert W. Vinal  
Assistant Deputy Commissioner Trials